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Attorneys for Defendant

Jose Sanchez Flores

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE SANCHEZ FLORES,

Defendant.

Case No. 5:17-cr-00506-BLF

**MOTION FOR TRIAL CONTINUANCE  
AND TO EXTEND PRETRIAL  
DEADLINES; DECLARATION OF LINDA  
KENY, ESQ.; PROPOSED ORDER**

Date: January 8, 2019

Time: 9:00 a.m.

Courtroom 3, 5<sup>th</sup> Floor

280 South First Street

San Jose, CA 95113

The Honorable Beth Labson Freeman

Comes now, Defendant Jose Sanchez Flores (“Defendant” or “Flores”), by and through undersigned counsel, pursuant to Rule 12 of the Federal Rules of Criminal Procedure and respectfully requests the Court to grant a continuance of the trial in this matter which is currently scheduled for April 22, 2019, and for an extension of all the pretrial deadlines in this matter. Defendant respectfully requests that trial in this matter be continued until a date no earlier than

1 July 22, 2019.

2 As grounds for this Motion, counsel submits the following Memorandum in Support:

3 **MEMORANDUM IN SUPPORT:**

4 1. Defendant Jose Sanchez Flores and the government, by and through undersigned  
5 counsel, appeared before the Court on November 20, 2018 at 9:00 AM for a status conference.  
6 Prior to the status conference, Defendant's counsel had been under the impression that a trial date  
7 was not available on the court calendar until at least June of 2019. *See* Declaration of Linda Keny,  
8 attached hereto ("Keny Decl."). Accordingly, based on this assumption, Defendant's counsel,  
9 after confirming the availability of lead trial counsel (Mr. Lawrence Ramirez) and its chief expert  
10 witness (CPA Edward De Jong), requested this court for a trial date after July of 2019. *See* Keny  
11 Decl.  
12

13 2. At the status conference, Defendant's counsel was informed that no trial date may  
14 be available until late in 2020 or early 2021. Wishing to avoid substantial delay and without  
15 knowing that the court would give Defendant a trial date so much prior than anticipated,  
16 Defendant's counsel accepted a trailing trial date of April 22<sup>nd</sup>, 2019. *See* Keny Decl.

17 3. However, lead trial counsel, Mr. Lawrence Ramirez, and the defense's chief expert  
18 witness, Mr. Edward De Jong, CPA of Branton, De Jong & Associates, are unavailable for the  
19 currently scheduled trial date of April 22<sup>nd</sup>, 2019, due to previous long standing commitments.  
20 As this is a criminal tax matter, Mr. De Jong's testimony is critical at trial as he is the CPA who  
21 has performed substantial review of and analysis of the issues central to a defense against the  
22 charges lodged against Defendant. Additionally, Mr. Ramirez's presence, as Defendant's lead  
23 trial counsel, is necessary at trial in order to render effective assistance of counsel.  
24

25 4. This case involves a significant amount of documentation and more time to

1 complete additional investigation and obtain witness testimony is necessary in order to render  
2 effective assistance of counsel. Additionally, as a result of the legal and factual issues which need  
3 to be more fully analyzed by counsel and, in some instances, subject to motions to be ruled upon  
4 by this Honorable Court, a continuance of the trial date and accompanying pretrial conference is  
5 requested.

6 5. This motion is not made to harass this court, and it is in the interests of justice that  
7 it be granted in that the granting of such continuance outweighs the best interests of the public  
8 and the defendants in a speedy trial pursuant to 18 U.S.C. § 3161(h)(8). It is proper for this Court  
9 to grant a continuance to serve the ends of justice when failure to grant a continuance would  
10 unreasonably deny a defendant continuity of effective counsel, or would deny counsel for a  
11 defendant the reasonable time necessary for effective preparation, or would deny the testimony  
12 of perhaps the most critical witness for the defense, taking into account the exercise of due  
13 diligence. Id.

14  
15 6. Defendant has not previously asked for any continuance of this matter. Defendant  
16 understands his rights under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., and acknowledges  
17 that these rights have been fully explained to him by his attorney. Consequently, Defendant  
18 asserts that he is willing to waive and does hereby waive his rights under the Speedy Trial Act  
19 and agrees that the time period from the currently scheduled trial date of April 22, 2019, until the  
20 next trial date scheduled for this matter should be excluded under the Speedy Trial Act.

21 7. Defendant's counsel has discussed this requested continuance with counsel for the  
22 Government, Assistant United States Attorney Michael Pitman and requested a stipulation to  
23 continue trial. AUSA Pitman agreed that the April 22<sup>nd</sup> trial date may be difficult due to the tax  
24 season and advised my office to file this motion to determine availability of the Court for an  
25

1 alternate trial date, although he did not see the necessity of prolonging the trial date to the extent  
2 requested in this Motion. *See* Keny Declaration.

3 8. As this case is expected to involve substantial pre-trial motions practice, and there  
4 are outstanding discovery issues, including subpoenas to be directed to the Internal Revenue  
5 Service, Defendant asks that all of the pretrial dates and deadlines in this matter – including the  
6 pretrial conference, the motion deadlines, and the deadline for filing witness/exhibits lists and  
7 jury instructions – be extended for a reasonable period of time from the current deadlines up to a  
8 reasonable date prior to the new trial date.

9 9. There is no prejudice to the government as a result of a trial continuance as there  
10 has been no previous request for a continuance nor substantial delay in the case.

11 WHEREFORE, for the foregoing reasons, Defendant respectfully requests that this matter  
12 be continued until the Court's next criminal trial docket, but no earlier than July 22, 2019, and  
13 that the pretrial deadlines be extended in this matter for a reasonable period of time from the  
14 current deadlines up to a date prior to the new trial date established by the Court.  
15

16  
17 Respectfully Submitted,

18 DATED: December 4, 2018

THE LITIGATION LAW GROUP

19 s/s Linda Keny

20 Lawrence P. Ramirez.

21 Natalie Nabizada

Linda Keny

22 ATTORNEYS FOR DEFENDANT,

23 JOSE SANCHEZ FLORES  
24  
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